

Delaware's New Arbitration Law Offers Fast and Efficient Dispute Resolution



Overview The recently enacted Delaware Rapid Arbitration Act (DRAA) seeks to address an unmet need of sophisticated businesses to have disputes resolved quickly and competently without costly drawn-out legal proceedings. The act employs some of the best practices from private international arbitrations and may be ideal for parties with ongoing commercial relationships seeking quick resolution of business disputes.

Availability The DRAA is available to businesses which specifically contract to resolve disputes under the DRAA and to have such disputes governed by Delaware law. At least one of the businesses must be a Delaware business entity or have its principal place of business in Delaware.

Location Arbitration proceedings may be held anywhere in the world, as agreed to by the parties.

Confidentiality Proceedings under the DRAA are confidential. If an appeal is made to the Supreme Court of Delaware, such appeals likely will be public and will be governed by the rules of the Supreme Court.

Fast Results The arbitrator's final decision must be completed within 120 days of the arbitrator's acceptance of appointment, with the possibility of a one-time 60-day extension if the parties agree. The arbitrator alone determines the scope of the arbitration, avoiding potentially lengthy disputes which can stall arbitrations. The DRAA vests the Court of Chancery with limited jurisdiction to act in specific situations, for example to appoint an arbitrator when the parties cannot agree on one. Unless the parties otherwise provide in their agreement, arbitrators will have broad discretion to grant any appropriate relief, including money damages, injunctions, and specific performance.

Customized Arbitration The DRAA provides maximum flexibility for the parties to agree in advance upon many aspects of arbitration, including the scope of arbitration, the name and number of arbitrators, the location of arbitration proceedings, the extent of evidence to be produced, the scope of relief and the availability of appeal.

Limited appeal Any appeal from an arbitration under the DRAA is limited to a single direct challenge of the final award to the Delaware Supreme Court, with such challenges governed by the narrow scope of review provided for under the Federal Arbitration Act. The parties may agree to forgo appeals.

More information To download an electronic copy of the Practitioner's Guide to the Delaware Rapid Arbitration Act, as well as frequently asked questions, model forms and petitions, visit rlf.com/DRAA.

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